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Admission to the Bar

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STATUTES AND RULES
IN RELATION TO THE
ADMISSION OF ATTORNEYS
IN
MASSACHUSETTS

Printed under direction of the
STATE BOARD OF BAR EXAMINERS
APRIL, 1901.

Massachusetts, 1901

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STATUTES AND RULES

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STATUTES.

ACTS OF 1897, CHAPTER 508.

(AS AMENDED BY ACTS OF 1898, CHAPTER 384.)

AN ACT TO ESTABLISH A STATE BOARD OF BAR EXAMINERS.

Be it enacted, etc., as follows:

SECTION 1. The justices of the supreme judicial court shall appoint a board of bar examiners of five members, no two of whom shall reside in the same county, whose term of office shall commence on the first day of October in the year eighteen hundred and ninety-seven, and who shall hold office one for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years and one for the term of five years, and thereafter one member shall be appointed annually for the term of five years. Said justices may remove any examiner and shall have power to fill any vacancy occurring in said board.

SECTION 2. (As amended by Acts of 1898, chapter 384.) A citizen of this Commonwealth, or an alien who has made the primary declaration of his intention to become a citizen of the United States, and who is an inhabitant of this Commonwealth, of the age of twenty-one years, may petition the supreme judicial or the superior court to be examined for admission as an attorney, whereupon, unless the court shall otherwise order, the petition shall be referred to the board of bar examiners, that they may ascertain his acquirements and qualifications. If the board report that the applicant is of good moral character, and recommend his admission, he may be admitted unless the court shall otherwise determine. If the court shall make an order upon any petition with reference to the admission of such petitioner, the petitioner shall be admitted in accordance with such order. A fee of ten dollars shall be paid by each candidate upon the entry of his petition and in case of any subsequent petition of the same candidate a fee of five dollars, to the clerk of the court to which application is made, which shall be

forwarded by said clerk to the treasurer of the Commonwealth.

SECTION 3. The said board shall determine the time and place of all examinations for admission to the bar, and may make rules for their conduct and government, not inconsistent with the provisions of law, subject to the approval of the supreme judicial court. There shall be allowed and paid to the members of said board by the treasurer of the Commonwealth, from the fees received under the provisions of this act, such compensation as the justices of the supreme judicial court or a majority of them shall determine.

SECTION 4. Section thirty-four of chapter one hundred and fifty-nine of the Public Statutes, and all other acts or parts of acts inconsistent herewith, are hereby repealed.

SECTION 5. This act shall take effect on the first day of January in the year eighteen hundred and ninety-eight.

Approved June 11, 1897.

PUBLIC STATUTES, CHAPTER 159.

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SECTION 35. Whoever is admitted as an attorney shall in open court take and subscribe the oaths to support the constitution of the United States, and of this Commonwealth, and the oath of office.

SECTION 36. The oath of office shall be as follows : —

You solemnly swear that you will do no falsehood, nor consent to the doing of any in court; you will not wittingly or willingly promote or sue any false, groundless, or unlawful suit, nor give aid or consent to the same; you will delay no man for lucre or malice; but you will conduct yourself in the office of an attorney within the courts according to the best of your knowledge and discretion, and with all good fidelity as well to the courts as your clients. So help you God.

SECTION 37. A person admitted as an attorney in either court may practise in every other court in the state; and there shall be no distinction of counsellors and attorneys.

SECTION 38. A person admitted as an attorney or counsellor of the highest judicial court of any other state of which he was an inhabitant, and who afterwards becomes an inhabitant of this

state, may be admitted to practice here upon satisfactory evidence of his good moral character and his professional qualifications.

ACTS OF 1882, CHAPTER 139.

AN ACT TO PERMIT WOMEN TO PRACTISE AS ATTORNEYS AT LAW.

Be it enacted, etc., as follows:

The provisions of law relating to the qualification and admission to practise of attorneys at law shall apply to women.

Approved April 10, 1882.

ACTS OF 1888, CHAPTER 257, SECTION 5.

AN ACT RELATING TO THE SALARIES OF THE CLERKS OF COURTS AND THE PAYMENT OF FEES IN THE SUPERIOR COURT AND THE SUPREME JUDICIAL COURT.

SECTION 5. The fee for admission to the bar shall be five dollars. . . .

Approved April 24, 1888.

RULES OF COURT.

Common Law Rules XXXII., XXXIII., XXXIV., and XXXVIII. of the Supreme Judicial Court, as amended on the 12th day of January A.D. 1886, and on the 7th day of January A.D. 1898, are as follows : —

XXXII.

Every application for admission as an attorney shall be made by a petition of the applicant, accompanied by the recommendation of an attorney of this court; which petition shall be filed with the clerk of the court, and entered on the docket.

XXXIII.

Every such petition shall be filed with the clerk of the court for the county in which the petitioner last studied law, except that the petition of any person who has so studied at a law school connected with any college or university within the Common-

wealth may be filed either in the county in which such law school is established, or in the County of Suffolk.

XXXIV.

No person who does not intend to practise as an attorney in this Commonwealth shall be entitled to be examined for admission.

XXXVIII.

Applications under Public Statutes, chapter 159, section 38, for admission to practice here, shall be referred to the State Board of Bar Examiners, unless the court shall otherwise order.

Common Law Rules I., II., and III. of the Superior Court, as established to take effect from and after the first Monday of July A.D. 1900, are as follows :—

I.

Every application for admission as an attorney shall be made by a petition of the applicant, accompanied by the recommendation of an attorney of this court ; which petition shall be filed with the clerk of the court, and entered on the docket.

II.

Every such petition shall be filed in the county in which the petitioner last studied law, except that the petition of any person who has so studied at a law school connected with any college or university within the Commonwealth may be filed either in the county in which such law school is established, or in the County of Suffolk.

III.

Applications under Public Statutes, chapter 159, section 38, for admission to practice here shall be referred to the State Board of Bar Examiners unless the court shall otherwise order.

RULES OF EXAMINERS.

COMMONWEALTH OF MASSACHUSETTS.

SUPREME JUDICIAL COURT.

Whereas, by chapter 508 of the acts of the year 1897, entitled "An Act to establish a State Board of Bar Examiners," it is provided that "the said board shall determine the time and place of all examinations for admission to the bar, and may make rules for their conduct and government, not inconsistent with the provisions of law, subject to the approval of the Supreme Judicial Court ;" and

Whereas the said State Board of Bar Examiners have prepared certain rules, which are hereto annexed, and have submitted them to the Justices of this Court for approval, in accordance with said statute ; and

Whereas said rules have been examined by the Justices of this Court :

It is thereupon ordered that said rules be approved, to take effect and have force in this Commonwealth from and after the first day of February A.D. eighteen hundred and ninety-eight.

By the Court,

JOHN NOBLE,

Clerk.

January 26, 1898.

A true copy. Attest : JOHN NOBLE, *Clerk.*

COMMONWEALTH OF MASSACHUSETTS.

At a meeting of the State Board of Bar Examiners holden at Boston on the twenty-second day of January in the year of our Lord one thousand eight hundred and ninety-eight: present,

HENRY S. DEWEY of Boston, <i>Chairman,</i>	} Examiners.
JABEZ FOX of Cambridge,	
MILTON REED of Fall River,	
EDWARD P. PIERCE of Fitchburg, <i>Secretary,</i>	
FREDERICK L. GREENE of Greenfield,	

Voted, That the following rules for the conduct and government of examinations for admission to the bar are established : —

I.

Every applicant for examination shall file with

the Secretary of the Board, before the day upon which the examination at which he intends to apply is appointed to be held, or shall hand to the Examiners upon presenting himself for such examination, proofs that he is entitled to be examined, together with evidence of his good moral character and of the course of study pursued by him. The applicant shall certify as to his residence (stating name of city or town, with street and number, if any); place and date of birth; citizenship; course of study prior to studying law; when and where he began the study of law, course of such study and where he last studied law; whether he has been engaged in any other occupation since he began the study of law, and if so, what, when, and where; whether he has been examined before for admission to the bar, either within this Commonwealth or elsewhere, and if so, when and where, and with what result.

Proof of good moral character of the applicant and of the course of study of law pursued by him shall be made by certificate of the attorney or attorneys with whom he has studied, or of a member of the faculty of the law school or schools

attended; and it shall appear in such certificate whether such study has been pursued regularly and attentively, and whether more than two months' vacation was taken in any year, if in an office, or more than the regular vacations of the school, if in a law school. Several certificates may be made so as to cover the whole term of study of the law in cases where such study has not been pursued exclusively in one office or school.

NOTE. — Forms of the certificates to be filed under these rules will be prepared by the Board and supplied to the several clerks of court as required, and such forms will be furnished by the Secretary of the Board upon request; but no particular forms are prescribed, and further proof on any point may be required by the Examiners, or, satisfactory reasons therefor being shown, such other proofs of the requisite facts may be accepted as they may deem sufficient.

II.

No applicant shall be entitled to be examined within five days after the filing of his application for admission.

III.

Examinations will be held in Boston in January

and in July of each year. Concurrent examinations may be appointed to be held in other places from time to time, as may appear to be necessary or expedient, and additional examinations may be held whenever they may be required. Due notice of the time and place or places of holding the several examinations will be given.

IV.

After an examination has been held, and before the Examiners report thereon, the Examiners will give public notice of the names of the applicants appearing to possess the acquirements necessary for admission, by publishing the same, once, at least, in some newspaper published in the county in which the petition is filed; and such notice shall state, in substance, that upon a day certain, to be named therein, if no objection shall be made, the Examiners will report to the Court that such applicants are found to be qualified.

V.

No person who has been examined and refused

admission shall be entitled to be re-examined within five months thereafter.

VI.

No applicant under Public Statutes, chapter 159, section 38, whose application is referred to the State Board of Bar Examiners, shall be excused from taking a regular examination, unless he has been a member of the bar of the highest court of some other state, and in actual practice, for at least three years; in which case it shall be within the discretion of the Board to excuse him from such examination.

VII.

ACQUIREMENTS AND QUALIFICATIONS.

Inasmuch as neither a definite term nor a certain course of study as a pre-requisite to a right for examination for admission to the bar has been established, the Examiners deem it proper, upon beginning their duties, to make some statement of their views as to the "acquirements and qualifications" that should be possessed by a student in

order to entitle him to be recommended for admission as an attorney, to the end that those intending to apply for examination may be aided in preparing therefor. While the Examiners believe that the best preparation for the practice of law includes a preliminary liberal education at least equivalent to that required for a degree of Bachelor of Arts, followed both by a thorough course of study at a law school and by a term of study and experience in an attorney's office, yet they believe that one may become a safe counsellor and a skilful attorney without having had the advantages either of a college course or of a course at a school of law. And so the Examiners only intend to require an applicant to show them, in addition to the requirements of the statute, that he is qualified to advise his clients intelligently, to manage their causes properly, and to conduct himself creditably in the honorable office of an attorney.

In deciding upon the qualifications of applicants, the Examiners will give weight not only to the amount of time spent in the study of law, but also to the grammar and composition of the written papers submitted. Applicants should have knowl-

edge not only of the general principles of the common law and of their development, and of the important provisions of our Statute law, especially those relating to probate, insolvency and to practice, but also of the Constitutions of Massachusetts and of the United States, and of the subject of legal ethics.

As to the length of time that should be devoted to the study of law, it is the opinion of the Examiners that the minimum amount of study that should be given by the average student, in order to qualify him to be admitted as an attorney at law, is three full years of continuous and exclusive study of the law, under favorable circumstances. That is to say, that the student of average ability, having first had the advantage of a suitable preparatory education, should devote at least three whole years to the uninterrupted and diligent study of the law, either at a law school or in constant attendance in the office of a lawyer in active practice, before applying for admission to the bar. And if a student of average ability has been compelled to pursue his law studies under unfavorable circumstances, as, for example, with-

out the advantages of proper preliminary training or of experience in a law office or school of law, then a longer period of time than three years should be given to such studies before he should be admitted to practice.

While holding the opinion just stated, the Examiners recognize the fact that natural ability and industry so vary, that some students may in less than three years better fit themselves for admission to the bar than the average student in three years or more. In their opinion, however, regular students of a law school should not apply for admission to the bar while still in attendance at the school and before completing the course there prescribed.

COMMONWEALTH OF MASSACHUSETTS.

STATE BOARD OF BAR EXAMINERS.

APRIL, 1901.

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